

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1351
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/02/28

SUPERIOR COURT OF JUSTICE – ONTARIO
Proceeding under the Class Proceedings Act, 1992

RE: ZEXI LI, HAPPY GOAT COFFEE COMPANY INC, 7983794 CANADA INC.
(c.o.b. as UNION: LOCAL 613) and GEOFFREY DEVANEY, Plaintiffs

AND:

CHRIS BARBER, BENJAMIN DICHTER, TAMARA LICH, PATRICK KING,
JAMES BAUDER, BRIGITTE BELTON, DANIEL BULFORD, DALE ENNS,
CHAD EROS, CHRIS GARRAH, MIRANDA GASIOR, JOE JANSEN, JASON
LAFACE, TOM MARAZZO, RYAN MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a. @NOBODYCARIBOU), FREEDOM 2022
HUMAN RIGHTS AND FREEDOMS, JOHN DOE 1, JOHN DOE 2, JOHN
DOE 3, JOHN DOE 4, JOHN DOE 5, JOHN DOE 6, JOHN DOE 7, JOHN DOE
8, JOHN DOE 9, JOHN DOE 10, JOHN DOE 11, JOHN DOE 12, JOHN DOE
13, JOHN DOE 14, JOHN DOE 15, JOHN DOE 16, JOHN DOE 17, JOHN DOE
18, JOHN DOE 19, JOHN DOE 20, JOHN DOE 21, JOHN DOE 22, JOHN DOE
23, JOHN DOE 24, JOHN DOE 25, JOHN DOE 26, JOHN DOE 27, JOHN DOE
28, JOHN DOE 29, JOHN DOE 30, JOHN DOE 31, JOHN DOE 32, JOHN DOE
33, JOHN DOE 34, JOHN DOE 35, JOHN DOE 36, JOHN DOE 37, JOHN DOE
38, JOHN DOE 39, JOHN DOE 40, JOHN DOE 41, JOHN DOE 42, JOHN DOE
43, JOHN DOE 44, JOHN DOE 45, JOHN DOE 46, JOHN DOE 47, JOHN DOE
48, JOHN DOE 49, JOHN DOE 50, JOHN DOE 51, JOHN DOE 52, JOHN DOE
53, JOHN DOE 54, JOHN DOE 55, JOHN DOE 56, JOHN DOE 57, JOHN DOE
58, JOHN DOE 59, JOHN DOE 60, JANE DOE 1 and JANE DOE 2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for the Plaintiffs

Norman Groot, for the Mareva defendants Dichter, Lich, Garrah, St. Louis and
Freedom 2022 Human Rights and Freedoms

Geoff Hall & Leah Ostler for the Toronto Dominion Bank

Melissa Adams, for the Attorney General of Ontario

HEARD: February 28, 2022

ENDORSEMENT

[1] On February 17, 2022, I granted an *ex parte* Mareva injunction. Reasons were released on February 22, 2022. (2022 ONSC 1176). As set out in that decision, the purpose of a Mareva injunction is to restrain the dissipation of assets to which a plaintiff may have a claim. A motion without notice is justified only if it appears that such dissipation of assets is imminent. Such an order can only be made on a temporary basis until the parties that are affected have an opportunity to respond and to be heard.

[2] The injunction was scheduled to expire today unless it was renewed. The plaintiffs brought the necessary motion for such an extension. In response, affidavits were filed by Tamara Lich and four individuals who live in downtown Ottawa and/or attended and supported the Freedom Convoy events in downtown Ottawa (Messrs. Gagne, Bulford, McKinney & Renaud).

[3] Affidavits were also sworn by an investigator (Daina Slenys) and by Mr. Dichter, Mr. Garrah and Mr. St. Louis. The latter were in support of a proposal to transfer funds held by each of those parties to an escrow fund as a term of adjourning the motion. That proposal was put forward by Mr. Groot who has been retained by the Mareva defendants except for Patrick King (who is currently in custody and did not appear today). This resulted in agreement to a brief extension of the order with slightly modified terms and to postponing certain disclosure and examinations under oath contemplated by the original order.

[4] Mr. Bobby Kofman, President of the proposed escrow agent attended to advise that the terms of the proposed order were satisfactory and KSV Advisory Inc. is prepared to act as escrow agent.

[5] Counsel for the Attorney General of Ontario appeared to advise that the Attorney General has no objection to the transfer of these funds to an escrow agent. The funds in question do not appear to be funds subject to the Restraint Order granted by Associate Chief Justice McWatt pursuant to the *Criminal Code* but in any event will be held by the escrow agent until further order of the court.

[6] Counsel for the TD Bank appeared because the bank holds certain funds that may be caught by either the restraint order or the Mareva injunction or both. The Bank intends to bring an interpleader motion to pay those funds into court. Counsel for the Bank does not oppose the order sought today.

[7] There was some discussion about whether the plaintiff would be required to bring a new motion on the return date. I agree with counsel for the plaintiff that it is not necessary to do so. I can adjourn the motion before the court today to the new return date on terms. Those terms are the temporary extension and modification of the Mareva injunction as set out in the consent order. The motion will therefore be adjourned until March 9, 2022, at 2:00 p.m. It will continue as a virtual hearing on the Zoom videoconference platform.

[8] I reiterate that this court proceeding is concerned with potential civil liability for the organizers, funders and participants in the Freedom Convoy to residents, businesses and employees in central Ottawa who were adversely affected. It is independent and separate from any of the criminal processes that may be underway.

[9] The injunction is concerned with preservation of assets that may be available to provide compensation if compensation is ultimately ordered.

[10] I will reserve further comment until the motion returns before the court on March 9.

[11] **This court therefore orders and directs as follows:**

- a. This motion is adjourned to March 9, 2022, at 2:00 p.m. to continue by way of videoconference on the Zoom platform provided by the court.
- b. On consent, and without prejudice to the rights of the parties, the Mareva injunction is extended and varied as set out in the formal order signed by me today.
- c. Costs of today, if any, are reserved to the hearing of the motion.

Mr. Justice C. MacLeod

Date: February 28, 2022

CITATION: Li et al. v. Barber et. al., 2022 ONSC 1351
COURT FILE NO.: CV-22-88514-CP
DATE: 2022/02/28

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: ZEXI LI, HAPPY GOAT COFFEE
COMPANY INC, 7983794
CANADA INC. (c.o.b. as
UNION: LOCAL 613) and
GEOFFREY DEVANEY, Plaintiffs

AND:

CHRIS BARBER, BENJAMIN
DICTER, TAMARA LICH,
PATRICK KING, JAMES BAUDER,
BRIGITTE BELTON, DANIEL
BULFORD, DALE ENNS, CHAD
EROS, CHRIS GARRAH, MIRANDA
GASIOR, JOE JANSEN, JASON
LAFACE, TOM MARAZZO, RYAN
MIHILEWICZ, SEAN TIESSEN,
NICHOLAS ST. LOUIS (a.k.a.
@NOBODYCARIBOU),
FREEDOM 2022 HUMAN RIGHTS
AND FREEDOMS, JOHN DOE 1,
JOHN DOE 2, JOHN DOE 3, JOHN
DOE 4, JOHN DOE 5, JOHN DOE 6,
JOHN DOE 7, JOHN DOE 8, JOHN
DOE 9, JOHN DOE 10, JOHN DOE 11,
JOHN DOE 12, JOHN DOE 13, JOHN
DOE 14, JOHN DOE 15, JOHN DOE
16, JOHN DOE 17, JOHN DOE 18,
JOHN DOE 19, JOHN DOE 20,
JOHN DOE 21, JOHN DOE 22, JOHN
DOE 23, JOHN DOE 24, JOHN DOE
25, JOHN DOE 26, JOHN DOE 27,
JOHN DOE 28, JOHN DOE 29, JOHN
DOE 30, JOHN DOE 31, JOHN DOE

32, JOHN DOE 33, JOHN DOE 34,
JOHN DOE 35, JOHN DOE 36, JOHN
DOE 37, JOHN DOE 38, JOHN DOE
39, JOHN DOE 40, JOHN DOE 41,
JOHN DOE 42, JOHN DOE 43, JOHN
DOE 44, JOHN DOE 45, JOHN DOE
46, JOHN DOE 47, JOHN DOE 48,
JOHN DOE 49, JOHN DOE 50,
JOHN DOE 51, JOHN DOE 52, JOHN
DOE 53, JOHN DOE 54, JOHN DOE
55, JOHN DOE 56, JOHN DOE 57,
JOHN DOE 58, JOHN DOE 59, JOHN
DOE 60, JANE DOE 1 and JANE DOE
2, Defendants

BEFORE: Regional Senior Justice Calum MacLeod

COUNSEL: Monique J. Jilesen, & Paul Champ, for
the Plaintiffs

Norman Groot, for the Mareva
defendants Dichter, Lich, Garrah, St.
Louis and Freedom 2022 Human Rights
and Freedoms

Geoff Hall & Leah Ostler for the Toronto
Dominion Bank

Melissa Adams, for the Attorney General
of Ontario

ENDORSEMENT

Regional Senior. Justice C. MacLeod

Released: February 28, 2022